

Part 5

Indigent Inmates

77-32-501 Contracts for defense of indigent inmates -- Qualifications -- Prosecutorial duties.

- (1) The board shall enter into contracts with qualified legal defense counsel to provide defense counsel services for an indigent inmate who is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501, is charged with having committed a crime within that facility, and will require defense counsel.
- (2) Payment for the representation, costs, and expenses of legal defense counsel shall be made from the Indigent Inmate Trust Fund as provided in Section 77-32-502.
- (3) The defense counsel shall maintain the minimum qualifications as provided in Section 77-32-301.
- (4) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.
- (5)
 - (a) The county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional tax levy by ordinance at .0001 per dollar of taxable value in the county.
 - (b) If the county governing body imposes the additional tax levy by ordinance, the money shall be deposited in the Indigent Inmate Trust Fund as provided in Section 77-32-502 to fund the purposes of this section.
 - (c) Upon notification that the fund has reached the amount specified in Subsection 77-32-502(6), the county shall deposit money derived from the levy into a county account used exclusively to provide defense counsel and defense related services for indigent defendants.
 - (d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Trust fund.

Amended by Chapter 80, 2009 General Session

77-32-502 Indigent Inmate Trust Fund -- Creation.

- (1) There is created a private-purpose trust fund known as the "Indigent Inmate Trust Fund" to be disbursed by the Division of Finance at the direction of the board and in accordance with contracts made under Section 77-32-402.
- (2) Money deposited in this trust fund only shall be used:
 - (a) to pay for the representation, costs, and expenses of legal defense counsel for an indigent inmate in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501 who is charged with having committed a crime within the facility, and who will require defense counsel; and
 - (b) for administrative costs pursuant to Section 77-32-401.
- (3) The trust fund consists of:
 - (a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 77-32-501(5) which shall be the total county obligation for payment of costs listed in Subsection (2) for defense of indigent inmates;
 - (b) appropriations made to the fund by the Legislature; and
 - (c) interest and earnings from the investment of fund money.
- (4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

- (5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation from the Legislature in the following general session to pay for the deficit. The state shall pay any or all of the reasonable and necessary money for the deficit into the Indigent Inmate Trust Fund.
- (6) The fund shall be capped at \$1,000,000.
- (7) The Division of Finance shall notify all contributing counties when the fund approaches \$1,000,000 and provide each county with the amount of the balance in the fund.
- (8) Upon notification by the Division of Finance that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach \$1,000,000 and discontinue contributions until notified by the Division of Finance that the balance has fallen below \$1,000,000, at which time counties that meet the requirements of Section 77-32-501 shall resume contributions.

Amended by Chapter 80, 2009 General Session